

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission
RAIL SAFETY SECTION

T03-0015

JUL 15 2003

informed UTU of this proposed extension, but UTU had not articulated a position on this request as of the time of the filing of this Motion.

2. UTU has now filed an Opposition to the Motion to Extend, in which it makes four arguments, none of which has merit.

3. First, UTU asserts that the motion was not timely filed. As UTU correctly notes, 83 Ill.Admin.Code § 200.560(a) states that a request for a continuance shall not be made with less than seven days' notice absent an emergency or agreement of the parties. Joint Movants' Motion to Extend was timely filed because it was delivered to a private express courier service (Federal Express) on July 10, 2003, for delivery to the Chief Clerk of the Commission on July 11, 2003. 83 Ill.Admin.Code § 200.70(a)(1) states that, "Unless the Public Utilities Act or other applicable statute specifically provides otherwise, or the Hearing Examiner specifically provides otherwise in the interest of a fair hearing, all other formal written communications and documents ... [i]f transmitted by a private express courier service, shall be deemed filed with or received by the Commission upon delivery to the courier service...." (Emphasis added.) Similarly, service on UTU and the other parties of record was effective on July 10, 2003, when their copies were delivered to Federal Express. 83 Ill.Admin.Code § 200.150(c). Accordingly, the Joint Motion was "filed" with the Chief Clerk on July 10, 2003, seven days in advance of the July 17, 2003, hearing date, in full compliance with § 200.560.

4. Second, UTU argues that this matter has been pending since February 2003 and that no objection was made to the July 17, 2003, hearing date at the June 24, 2003, hearing. However, UTU does not dispute that the parties have been engaged in good faith negotiations in an effort to resolve this matter as late as July 1, 2003. Only when it proved

impossible to resolve this matter informally was it necessary for NSRC to expend the resources to prepare for the public hearing. It was only when these negotiations proved to be unsuccessful that NSRC retained counsel, which had not previously represented the carrier in these proceedings. NSRC and its counsel need this brief, 30-day extension of time in order to prepare witnesses for the public hearing that the carrier had hoped would not be required.

5. Third, UTU argues that its attorney, Lawrence Mann, has a scheduling conflict with the August 21, 2003, date. Joint Movants are most willing to accommodate Attorney Mann's schedule, but neither he nor UTU has indicated any alternative dates on which he would be available.

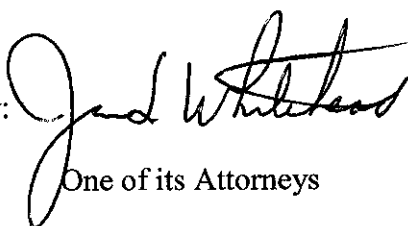
6. Finally, UTU asserts, without explanation, evidence, or elaboration, that the requested brief delay will result in harm to rail employees. As UTU acknowledges in paragraph 3 of its Opposition, UTU has been engaged in informal discussions on this matter with representatives of the Illinois Railroad Association since November 2002 and only filed this proceeding with the Commission in February, 2003. In light of UTU's lack of diligence in pressing this matter, there is no reason to believe that a brief 30-day extension will result in any prejudice to any party, much less harm to any rail employees.

WHEREFORE, the Joint Movants respectfully request an extension of the scheduled hearing date to August 21, 2003, and any and all other appropriate relief.

Dated: July 14, 2003

Respectfully submitted,

Norfolk Southern Railway Company

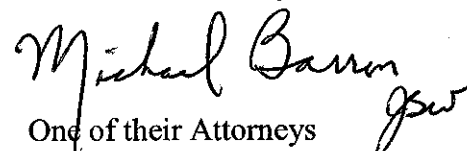
By: 
One of its Attorneys

James S. Whitehead
SIDLEY AUSTIN BROWN & WOOD LLP
10 S. Dearborn
Chicago, Illinois 60603
(312) 853-7000
Fax: (312) 853-7036
E-Mail: jwhitehead@sidley.com

Attorneys for Norfolk Southern
Railway Company

Respectfully submitted,

Illinois Central Railroad Company, Grand Trunk
Western Railroad Incorporated, Chicago, Central
& Pacific Railroad Company, Wisconsin Central
Ltd., and Wisconsin Chicago Link Ltd.

By: 
One of their Attorneys

Michael Barron
U.S. Legal Affairs
CN
455 N. Cityfront Plaza Drive
Chicago, Illinois 60611-5317
Tel: 312-755-7954
Fax: 312-755-7669
Email: Michael.Barron@cn.ca

Counsel for Illinois Central Railroad
Company, et al.

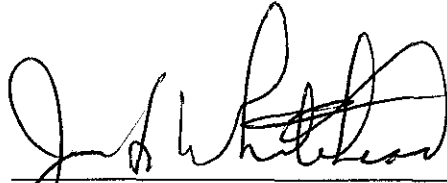
UNITED TRANSPORTATION UNION,
ILLINOIS STATE LEGISLATIVE BOARD

T03-0015

James S. Whitehead
SIDLEY AUSTIN BROWN & WOOD LLP
10 S. Dearborn Street
Chicago, Illinois 60603
(312) 853-7000
Fax: (312) 853-7036
jwhitehead@sidley.com

CERTIFICATE OF SERVICE

I, James S. Whitehead, an attorney, certify that I caused copies of the attached Notice of Filing and Reply in Support of Motion to Extend Schedule to be served on each of the parties listed on the service list by mail, messenger, electronic mail or Federal Express this 14th day of July, 2003.



One of the Attorneys for
Norfolk Southern Railway Company

James S. Whitehead
SIDLEY AUSTIN BROWN & WOOD LLP
10 S. Dearborn Street
Chicago, Illinois 60603
(312) 853-7000
Fax: (312) 853-7036
jwhitehead@sidley.com

SERVICE LIST

June B. Tate

Administrative Law Judge
Review & Examination Program
Illinois Commerce Commission
160 North LaSalle Street #C-800
Chicago, IL. 60601-3104

Diana G. Collins

Special Assistant Attorney General
160 North LaSalle Street #C-800
Chicago, IL 60601-3104

Tom Buschmann

Director
Human Resources
Manufacturers Railway Company
2850 S. Broadway
St. Louis, MO 63118-1810

James Easterly

Director
Division of Highways
Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, IL 62764

Victor A. Modeer

Director of Highways – IDOT
Attn: Jeff Harpring, Room 205
2300 South Dirksen Parkway
Springfield, IL 62764

Document Processor

CT Corporation System
208 S. LaSalle Street
Chicago, IL 60604

Lawrence M. Mann

Attorney
1667 K Street, NW, 11th Floor
Washington, DC 20006

Joseph Szabo

Director

State Legislative Board
United Transportation Union
8 S. Michigan Ave., Ste. 2006
Chicago, IL 60603

Michael Barron
U.S. Legal Affairs
CN
455 N. Cityfront Plaza Drive
Chicago, Illinois 60611-5317

Ms. Patricia Barksdale
CSX
500 Water Street
Jacksonville, FL. 32202

Mack H. Shumate, Jr.
Union Pacific Railroad Company
101 North Wacker Drive, Room 1920
Chicago, IL. 60606

W. Douglas Werner
Burlington Northern and Santa Fe Railway Company
2500 Lou Menk Drive
Ft. Worth, TX. 76131

Cheryl Townlian
Manager Public Projects
Burlington Northern & Santa Fe Railway Company
3253 E. Chestnut Expressway
Springfield, MO 65802

G. Darryl Reed
Sidley Austin Brown & Wood LLP
10 S. Dearborn Street, Ste 5200 SW
Chicago, IL. 60603

Randal Noe
Norfolk Southern Corporation
Three Commercial Plaza
Norfolk, VA. 23510

Paul Nowicki
547 W. Jackson Street, Ste. 1509
Chicago, IL. 60661

Richard T. Sikes, Jr.
311 S. Wacker Drive
Chicago, IL. 60606

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